

ASSEMBLY BILL

No. 1757

Introduced by Assembly Member Fletcher

February 17, 2012

An act to amend Section 8811 of the Family Code, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

AB 1757, as introduced, Fletcher. Family law: adoption.

Existing law governs the adoption of unmarried minors. Under existing law, the State Department of Social Services or a delegated county adoption agency must fingerprint and perform a criminal background investigation on a prospective adoptive parent. Existing law also prohibits the State Department of Social Services and delegated county adoption agencies from giving final approval to an adoption if a prospective adoptive parent or an adult who lives in the prospective adoptive home has specified criminal convictions.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 8811 of the Family Code is amended to
- 2 read:
- 3 8811. (a) The department or delegated county adoption agency
- 4 shall require each person filing an adoption petition to be
- 5 fingerprinted and shall secure from ~~an~~ *the* appropriate law

1 enforcement agency any criminal record of that person to determine
2 whether the person has ever been convicted of a crime other than
3 a minor traffic violation. The department or delegated county
4 adoption agency may also secure the person's full criminal record,
5 if any. Any federal-level criminal offender record requests to the
6 Department of Justice shall be submitted with fingerprint images
7 and related information required by the Department of Justice for
8 the purposes of obtaining information as to the existence and
9 content of a record of an out-of-state or federal conviction or arrest
10 of a person or information regarding any out-of-state or federal
11 crimes or arrests for which the Department of Justice establishes
12 that the person is free on bail, or on his or her own recognizance
13 pending trial or appeal. The Department of Justice shall forward
14 to the Federal Bureau of Investigation any requests for federal
15 summary criminal history information received pursuant to this
16 section. The Department of Justice shall review the information
17 returned from the Federal Bureau of Investigation and shall compile
18 and disseminate a response to the department or delegated county
19 adoption agency.

20 (b) Notwithstanding subdivision (c), the criminal record, if any,
21 shall be taken into consideration when evaluating the prospective
22 adoptive parent, and an assessment of the effects of any criminal
23 history on the ability of the prospective adoptive parent to provide
24 adequate and proper care and guidance to the child shall be
25 included in the report to the court.

26 (c) (1) Under no circumstances shall the department or a
27 delegated county adoption agency give final approval for an
28 adoptive placement in any home where the prospective adoptive
29 parent or any adult living in the prospective adoptive home has
30 either of the following:

31 (A) A felony conviction for child abuse or neglect, spousal
32 abuse, crimes against a child, including child pornography, or for
33 a crime involving violence, including rape, sexual assault, or
34 homicide, but not including other physical assault and battery. For
35 purposes of this subdivision, crimes involving violence means
36 ~~those~~ *the* violent crimes contained in clause (i) of subparagraph
37 (A), and subparagraph (B), of paragraph (1) of subdivision (g) of
38 Section 1522 of the Health and Safety Code.

39 (B) A felony conviction that occurred within the last five years
40 for physical assault, battery, or a drug- or alcohol-related offense.

1 (2) This subdivision shall become operative on October 1, 2008,
2 and shall remain operative only to the extent that compliance with
3 its provisions is required by federal law as a condition of receiving
4 funding under Title IV-E of the federal Social Security Act (42
5 U.S.C. 670 and following).

6 (d) Any fee charged by a law enforcement agency for
7 fingerprinting or for checking or obtaining the criminal record of
8 the petitioner shall be paid by the petitioner. The department or
9 delegated county adoption agency may defer, waive, or reduce the
10 fee when its payment would cause economic hardship to the
11 prospective adoptive parents detrimental to the welfare of the
12 adopted child, when the child has been in the foster care of the
13 prospective adoptive parents for at least one year, or if necessary
14 for the placement of a special-needs child.